

WEIL, GOTSHAL & MANGES LLP  
767 Fifth Avenue  
New York, New York 10153  
Telephone: (212) 310-8000  
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Robert J. Lemons

Attorneys for Debtors  
and Debtors in Possession

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

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**In re** : **Chapter 11 Case No.**  
:  
**LEHMAN BROTHERS HOLDINGS INC., et al.** : **08-13555 (JMP)**  
:  
**Debtors.** : **(Jointly Administered)**  
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X

**REPLY TO RESPONSE OF ROBERT ZITO OPPOSING  
DEBTORS' SEVENTY-FIFTH OMNIBUS OBJECTION TO  
CLAIMS (TO RECLASSIFY PROOFS OF CLAIM AS EQUITY INTERESTS)**

TO THE HONORABLE JAMES M. PECK  
UNITED STATES BANKRUPTCY JUDGE:

Lehman Brothers Holdings Inc. ("LBHI") and its affiliated debtors, in the above referenced chapter 11 cases, as debtors and debtors in possession (collectively, the "Debtors"), submit this reply to the response<sup>1</sup> filed by Robert Zito [Docket No. 13883] (the "Zito Response") opposing the Seventy-Fifth Omnibus Objection<sup>2</sup> and respectfully represent:

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<sup>1</sup> This reply does not address Lucky Asia Trading Limited's response to the Debtors' Seventy-Fifth Omnibus Objection [Docket No. N/A]. That response provides no legal argument for opposing the Seventy-Fifth Omnibus Objection. The Debtors reserve their rights to submit a reply brief thereto.

<sup>2</sup> Capitalized terms used herein and not otherwise defined herein shall have the meanings ascribed to such terms in the Debtors' Seventy-Fifth Omnibus Objection to Claims.

### **Preliminary Statement**

1. The commencement of the Debtors' chapter 11 cases has impacted parties in interest around the globe, including prepetition investors in the Debtors and their affiliates. Unfortunately, as a result of the dramatic collapse of the Debtors, individuals that purchased Debtors' stock lost significant value in their investment, and the law requires that those individuals' recovery be subordinated to other claims against the Debtors.

2. Mr. Zito argues that his claim 479 (the "Zito Claim") should not be reclassified as equity for two reasons.<sup>3</sup> First, he argues that his claim is one for the loss in the value of his LBHI common stock due to the Debtors' alleged misrepresentations concerning their financial condition, and thus, is not subject to section 510(b) of the Bankruptcy Code. Second, Mr. Zito argues that his claim is entitled to treatment as a priority claim pursuant to Bankruptcy Code section 507(a)(5) as a contribution to an employee benefit plan. *See generally* Zito Response. Both arguments are contrary to the law and facts. Accordingly, the Court should reclassify the Zito Claim as an equity interest with no greater priority than common stock in the Debtors.

### **Background**

3. On December 8, 2010, the Debtors filed their Seventy-Fifth Omnibus Objection to reclassify as equity interests certain claims based on the ownership of preferred stock, common stock, or other equity interests (the "Stock Claims"). By order

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<sup>3</sup> Mr. Zito filed two claims in these chapter 11 cases. Claim 479 was filed on November 3, 2008 and is attached hereto as Exhibit A. Claim 5444 was filed on July 16, 2009 and is attached hereto as Exhibit B. Claim 5444 was expunged as duplicative of claim 479 pursuant to the Debtors' First Omnibus Objection to Claims (Duplicate Claims) [Docket No. 6873].

dated January 20, 2011, the Court granted the relief as to the majority of the Stock Claims.

### **Argument and Authorities**

4. It is undisputed that LBHI common stock is an equity security under the Bankruptcy Code and that Mr. Zito, as the owner of LBHI common stock, is an equity security holder. *See* 11 U.S.C. § 101(16) and 101(49)A. Mr. Zito's argument that he should be treated differently from other equity security holders because the Zito Claim seeks to recover for the diminution in value of LBHI common stock due to alleged fraud by the Debtors necessarily fails. As discussed in the Seventy-Fifth Omnibus Objection, section 510(b) of the Bankruptcy Code broadly requires subordination of claims "arising from the purchase or sale of a security." (Seventy-Fifth Omnibus Objection ¶¶12-13.) It is well-established that section 510(b) encompasses claims for the diminution in value of stock allegedly caused by fraud. *See, e.g., In re Enron Corp.*, 341 B.R. 141, 150 (Bankr. S.D.N.Y. 2006) (finding that fraudulent inducement and fraudulent retention are claims "arising from" the purchase of a security subject to section 510(b)); *In re WorldCom, Inc.*, 329 B.R. 10, 17 (Bankr. S.D.N.Y. 2005) (claims for damages based upon fraudulent inducement in the purchase and retention of WorldCom stock are "unarguably" within the scope of section 510(b)). Because the Zito Claim asserts damages directly arising from Mr. Zito's purchase and retention of LBHI common stock, it falls squarely within the scope of section 510(b) and must be subordinated.

5. Moreover, for purposes of determining if the Zito Claim is properly classified as an equity interest subject to subordination, it is irrelevant whether the Zito Claim would be entitled to priority treatment as loss of contributions to an employee

benefit plan pursuant to section 507(a)(5) of the Bankruptcy Code. *See In re WorldCom, Inc.*, No. 02-13533 (AJG), 2006 WL 3782712, at \*6 (Bankr. S.D.N.Y. Dec. 21, 2006) (finding that “[t]he form in which the equity interest is held is ultimately irrelevant” and claim for stock held in retirement account is subject to section 510(b)). Regardless, section 507(a)(5)’s grant of priority treatment is limited to claims for contributions to employee benefit plans for services rendered within 180 days prior to a debtor’s chapter 11 filing and is intended for the benefit of a debtor’s employees. *See* 11 U.S.C. § 507(a)(5); *Howard Delivery Serv., Inc. v. Zurich Am. Ins. Co.*, 547 U.S. 651, 659 (2006) (“[T]he main office of § 507(a)(5) is to capture portions of employee compensation for services rendered not covered by § 504(a)(4). . . . The current Code’s juxtaposition of the wage and employee benefit plan priorities manifests Congress’ comprehension that fringe benefits generally complement, or ‘substitute’ for, hourly pay.”); *In re Pittston Stevedoring Corp.*, 40 B.R. 424, 426 (Bankr. S.D.N.Y. 1984) (“It is abundantly clear from the language of the Code that the event which triggers priority status for a claim for contribution to an employee benefit plan is the performance of that employee’s services.”). Mr. Zito’s alleged entitlement to a priority claim is based solely on the fact that the common stock he *purchased* was held in an individual retirement account. *See Exhibit B.* Mr. Zito did not provide any services to the Debtors; he was not an employee of the Debtors or any of their affiliates, and his claim is not based on any obligation of the Debtors to make a contribution to a benefit plan. Accordingly, the Zito Claim is outside the scope of section 507(a)(5) and, even if not subordinated pursuant to section 510(b), which it should be, the Zito Claim is not entitled to priority treatment.

**Conclusion**

6. Mr. Zito's purchase of common stock in the Debtors secures him an equity interest in the Debtors and nothing more. The Zito Claim, although packaged as a fraud claim, directly arises from Mr. Zito's ownership of LBHI stock, and must be subordinated pursuant to section 510(b) of the Bankruptcy Code. Accordingly, Debtors respectfully request that the Court grant the Seventy-Fifth Omnibus Objection as to the Zito Claim and enter an order reclassifying it as an equity interest. Debtors also respectfully request any further relief as is just.

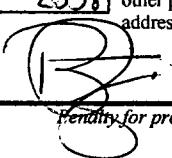
Dated: May 27, 2011  
New York, New York

/s/ Robert J. Lemons  
Robert J. Lemons

WEIL, GOTSHAL & MANGES LLP  
767 Fifth Avenue  
New York, New York 10153  
Telephone: (212) 310-8000  
Facsimile: (212) 310-8007

# EXHIBIT A

B 10 (Official Form 10) (12/07)

UNITED STATES BANKRUPTCY COURT		PROOF OF CLAIM
Name of Debtor: <b>Lehman Brothers</b>	Case Number: <b>08-1355</b>	
NOTE: This form should not be used to make a claim for an administrative expense arising after the commencement of the case. A request for payment of an administrative expense may be filed pursuant to 11 U.S.C. § 503.		
Name of Creditor (the person or other entity to whom the debtor owes money or property): <b>ROBERT L ZITO</b>	<input type="checkbox"/> Check this box to indicate that this claim amends a previously filed claim.	
Name and address where notices should be sent: <b>ROBERT L ZITO 4600 N SUNCASTLE CT. Appleton WI 54913</b>	Court Claim Number: _____ (If known)	
Telephone number: <b>(cell) 847-922-1854 (H) 920-830-3597</b>	Filed on: _____	
Name and address where payment should be sent (if different from above): <b>SIA</b>	<input type="checkbox"/> Check this box if you are aware that anyone else has filed a proof of claim relating to your claim. Attach copy of statement giving particulars.	
Telephone number:	<input type="checkbox"/> Check this box if you are the debtor or trustee in this case.	
<b>1. Amount of Claim as of Date Case Filed:</b> <u>\$ 10,088.81</u>	<b>5. Amount of Claim Entitled to Priority under 11 U.S.C. §507(a).</b> If any portion of your claim falls in one of the following categories, check the box and state the amount.	
If all or part of your claim is secured, complete item 4 below; however, if all of your claim is unsecured, do not complete item 4. <b>* CREDITOR Robert L ZITO STILL OWNS THE SHARES (43%)</b>	Specify the priority of the claim.	
If all or part of your claim is entitled to priority, complete item 5. <b>0f Lehman Brothers</b> .	<input type="checkbox"/> Domestic support obligations under 11 U.S.C. §507(a)(1)(A) or (a)(1)(B).	
<input type="checkbox"/> Check this box if claim includes interest or other charges in addition to the principal amount of claim. Attach itemized statement of interest or charges.	<input type="checkbox"/> Wages, salaries, or commissions (up to \$10,950*) earned within 180 days before filing of the bankruptcy petition or cessation of the debtor's business, whichever is earlier – 11 U.S.C. §507 (a)(4).	
<b>2. Basis for Claim:</b> <u>MISREPRESENTATION / By Lehman Brothers (See instruction #2 on reverse side.)</u>	<input type="checkbox"/> Contributions to an employee benefit plan – 11 U.S.C. §507 (a)(5).	
<b>3. Last four digits of any number by which creditor identifies debtor:</b> <u>08-1355</u>	<input type="checkbox"/> Up to \$2,425* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use – 11 U.S.C. §507 (a)(7).	
<b>3a. Debtor may have scheduled account as:</b> <u>MANAG DOCUMENT #</u> (See instruction #3a on reverse side.)	<input type="checkbox"/> Taxes or penalties owed to governmental units – 11 U.S.C. §507 (a)(8).	
<b>4. Secured Claim</b> (See instruction #4 on reverse side.) Check the appropriate box if your claim is secured by a lien on property or a right of setoff and provide the requested information.	<input type="checkbox"/> Other – Specify applicable paragraph of 11 U.S.C. §507 (a)(____).	
Nature of property or right of setoff: <input type="checkbox"/> Real Estate <input type="checkbox"/> Motor Vehicle <input type="checkbox"/> Other Describe:	<b>Amount entitled to priority:</b> _____	
Value of Property: \$ _____ Annual Interest Rate %	\$ _____	
Amount of arrearage and other charges as of time case filed included in secured claim, if any: \$ _____ Basis for perfection: _____		
Amount of Secured Claim: \$ _____ Amount Unsecured: \$ _____		
<b>6. Credits:</b> The amount of all payments on this claim has been credited for the purpose of making this proof of claim.		
<b>7. Documents:</b> Attach redacted copies of any documents that support the claim, such as promissory notes, lease orders, invoices, itemized statements of running account. You may also attach a summary. Attach redacted copy of a security interest. You may also attach a summary.	Filed: USBC - Southern District of New York Lehman Brothers Holdings Inc., Et Al. 08-13555 (JMP) 0000000479	ts.
DO NOT SEND ORIGINAL DOCUMENTS. ATT SCANNING.		
If the documents are not available, please explain:	*Amounts are subject to adjustment on 4/1/10 and every 3 years thereafter with respect to cases commenced on or after the date of adjustment.	
Date: <b>10/27/2008</b>	FOR COURT USE ONLY	
Signature: The person filing this claim must sign it. Sign and print name and title, if any, of the creditor or other person authorized to file this claim and state address and telephone number if different from the notice address above. Attach copy of power of attorney, if any.	<b>FILED / RECEIVED</b>	
	NOV - 3 2008	
Penalty for presenting fraudulent claim: Fine of up to \$500,000 or imprisonment for up to 5 years, or both. 18 U.S.C. §§ 152 and 3571.		



**AMERITRADE**

PO BOX 733 • BENSALEM PA 19020-0733  
Please do not send deposits or correspondence to this address

**TD AMERITRADE, DIVISION OF TD AMERITRADE  
INC - SDBA FOR PLAN PARTICIPANTS  
PO BOX 2209  
OMAHA NE 68103-2209**

C3-060105386  
NEW YORK LIFE TRUST CO TR  
THE WARRANTY GROUP INC SAVINGS PLAN  
FBO ROBERT L ZITO  
4600 N SUNCASTLE CT  
APPLETON WI 54913-7504

00001643 8 1643

8 1643

1

\* MISREPRESENTATION OF FACTS  
By Lehman Brothers (Co)  
Dick Fuld

\* \* CREDITOR - Robert L ZITO  
STILL OWNS THE BELOW LISTED SHARES (431)  
OF LehMAN BROTHERS

## **Confirmation Notice**



ACCOUNT NO.		OTHER INFO		TRANSACTION NUMBER		CAP CODES	YOUR REPRESENTATIVE	
8564-1				03986409610		5	THE WARRANTY GROUP INC SAVINGS	
ACTIVITY	QUANTITY	CUSIP NUMBER	PRICE	PRINCIPAL AMOUNT		FEES	SALES FEE	
YOU BOUGHT	1	8100	23.34940	23.35				
AS OF TRADE DATE		TRADE DATE	SETTLEMENT DATE	INTEREST	COMMISSION	NET AMOUNT		
		06/23/2008	06/26/2008			23.35		
TRADE DESCRIPTION				SYMBOL				
LEHMAN BROS HLDGS INC COM				LEH				
THIS IS AN UNSOLICITED TRADE								

ACCOUNT NO.		OTHER INFO		TRANSACTION NUMBER		CAP CODES		YOUR REPRESENTATIVE	
8564-1				03986407291		5		THE WARRANTY GROUP INC SAVINGS	
ACTIVITY	QUANTITY	CUSIP NUMBER		PRICE		PRINCIPAL AMOUNT		FEES	SALES FEE
YOU BOUGHT	430	8100		23.34990		10,040.46			
AS OF TRADE DATE	TRADE DATE	SETTLEMENT DATE		INTEREST		COMMISSION		NET AMOUNT	
	06/23/2008	06/26/2008				25.00		10,065.46	
TRADE DESCRIPTION					SYMBOL				
LEHMAN BROS HLDGS INC COM					LEH				
THIS IS AN UNSOLICITED TRADE									
TP 10,088.81									

B 10 (Official Form 10) (12/07) – Cont.

#### INSTRUCTIONS FOR PROOF OF CLAIM FORM

The instructions and definitions below are general explanations of the law. In certain circumstances, such as bankruptcy cases not filed voluntarily by the debtor, there may be exceptions to these general rules.

##### Items to be completed in Proof of Claim form

###### Court, Name of Debtor, and Case Number:

Fill in the federal judicial district where the bankruptcy case was filed (for example, Central District of California), the bankruptcy debtor's name, and the bankruptcy case number. If the creditor received a notice of the case from the bankruptcy court, all of this information is located at the top of the notice.

###### Creditor's Name and Address:

Fill in the name of the person or entity asserting a claim and the name and address of the person who should receive notices issued during the bankruptcy case. A separate space is provided for the payment address if it differs from the notice address. The creditor has a continuing obligation to keep the court informed of its current address. See Federal Rule of Bankruptcy Procedure (FRBP) 2002(g).

###### 1. Amount of Claim as of Date Case Filed:

State the total amount owed to the creditor on the date of the Bankruptcy filing. Follow the instructions concerning whether to complete items 4 and 5. Check the box if interest or other charges are included in the claim.

###### 2. Basis for Claim:

State the type of debt or how it was incurred. Examples include goods sold, money loaned, services performed, personal injury/wrongful death, car loan, mortgage note, and credit card.

###### 3. Last Four Digits of Any Number by Which Creditor Identifies Debtor:

State only the last four digits of the debtor's account or other number used by the creditor to identify the debtor.

###### 3a. Debtor May Have Scheduled Account As:

Use this space to report a change in the creditor's name, a transferred claim, or any other information that clarifies a difference between this proof of claim and the claim as scheduled by the debtor.

###### 4. Secured Claim:

Check the appropriate box and provide the requested information if the claim is fully or partially secured. Skip this section if the claim is entirely unsecured. (See DEFINITIONS, below.) State the type and the value of property that secures the claim, attach copies of lien

documentation, and state annual interest rate and the amount past due on the claim as of the date of the bankruptcy filing.

###### 5. Amount of Claim Entitled to Priority Under 11 U.S.C. §507(a).

If any portion of your claim falls in one or more of the listed categories, check the appropriate box(es) and state the amount entitled to priority. (See DEFINITIONS, below.) A claim may be partly priority and partly non-priority. For example, in some of the categories, the law limits the amount entitled to priority.

###### 6. Credits:

An authorized signature on this proof of claim serves as an acknowledgment that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.

###### 7. Documents:

Attach to this proof of claim form redacted copies documenting the existence of the debt and of any lien securing the debt. You may also attach a summary. You must also attach copies of documents that evidence perfection of any security interest. You may also attach a summary. FRBP 3001(c) and (d). Do not send original documents, as attachments may be destroyed after scanning.

###### Date and Signature:

The person filing this proof of claim must sign and date it. FRBP 9011. If the claim is filed electronically, FRBP 5005(a)(2), authorizes courts to establish local rules specifying what constitutes a signature. Print the name and title, if any, of the creditor or other person authorized to file this claim. State the filer's address and telephone number if it differs from the address given on the top of the form for purposes of receiving notices. Attach a complete copy of any power of attorney. Criminal penalties apply for making a false statement on a proof of claim.

#### DEFINITIONS

##### Debtor

A debtor is the person, corporation, or other entity that has filed a bankruptcy case.

##### Creditor

A creditor is the person, corporation, or other entity owed a debt by the debtor on the date of the bankruptcy filing.

##### Claim

A claim is the creditor's right to receive payment on a debt that was owed by the debtor on the date of the bankruptcy filing. See 11 U.S.C. §101 (5). A claim may be secured or unsecured.

##### Proof of Claim

A proof of claim is a form used by the creditor to indicate the amount of the debt owed by the debtor on the date of the bankruptcy filing. The creditor must file the form with the clerk of the same bankruptcy court in which the bankruptcy case was filed.

##### Secured Claim Under 11 U.S.C. §506(a)

A secured claim is one backed by a lien on property of the debtor. The claim is secured so long as the creditor has the right to be paid from the property prior to other creditors. The amount of the secured claim cannot exceed the value of the property. Any amount owed to the creditor in excess of the value of the property is an unsecured claim. Examples of liens on property include a mortgage on real estate or a security interest in a car.

#### INFORMATION

##### Acknowledgment of Filing of Claim

To receive acknowledgment of your filing, you may either enclose a stamped self-addressed envelope and a copy of this proof of claim or you may access the court's PACER system ([www.pacer.psc.uscourts.gov](http://www.pacer.psc.uscourts.gov)) for a small fee to view your filed proof of claim.

##### Offers to Purchase a Claim

Certain entities are in the business of purchasing claims for an amount less than the face value of the claims. One or more of these entities may contact the creditor and offer to purchase the claim. Some of the written communications from these entities may easily be confused with official court documentation or communications from the debtor. These entities do not represent the bankruptcy court or the debtor. The creditor has no obligation to sell its claim. However, if the creditor decides to sell its claim, any transfer of such claim is subject to FRBP 3001(e), any applicable provisions of the Bankruptcy Code (11 U.S.C. § 101 et seq.), and any applicable orders of the bankruptcy court.

##### Unsecured Claim

An unsecured claim is one that does not meet the requirements of a secured claim. A claim may be partly unsecured if the amount of the claim exceeds the value of the property on which the creditor has a lien.

##### Claim Entitled to Priority Under 11 U.S.C. §507(a)

Priority claims are certain categories of unsecured claims that are paid from the available money or property in a bankruptcy case before other unsecured claims.

##### Redacted

A document has been redacted when the person filing it has masked, edited out, or otherwise deleted, certain information. A creditor should redact and use only the last four digits of any social-security, individual's tax-identification, or financial-account number, all but the initials of a minor's name and only the year of any person's date of birth.

##### Evidence of Perfection

Evidence of perfection may include a mortgage, lien, certificate of title, financing statement, or other document showing that the lien has been filed or recorded.

ZIN  
KODAK, INC., Plaintiff  
vs.  
LEHMAN BROTHERS HOLDINGS, LAM, Plaintiff  
vs.

RECEIVED  
[ ]  
NOV 03 2008

Lehman Brothers Holdings, Inc.  
c/o Scotia Bankruptcy Department  
FDIC, Station 1, P.O. Box 5016  
New York, NY 10150-5016

10150-5016

# **EXHIBIT B**

Lehman Brothers Holdings Claims Processing Center  
c/o Epiq Bankruptcy Solutions, LLC  
FDR Station, P.O. Box 5076  
New York, NY 10150-5076

## PROOF OF CLAIM

In Re: Lehman Brothers Holdings Inc., et al. Debtors.	Chapter 11 Case No. 08-13555 (JMP) (Jointly Administered)
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Name of Debtor Against Which Claim is Held	Case No. of Debtor
--	--------------------

NOTE: This form should not be used to make a claim for an administrative expense arising after the commencement of the case. A request for payment of an administrative expense may be filed pursuant to 11 U.S.C. § 503. Additionally, this form should not be used to make a claim for Lehman Programs Securities (See definition on reverse side.)

Name and address of Creditor: (and name and address where notices should be sent if different from Creditor)

LBH (MERGE2.DBF,Txnum2) Txnum2 #: 4000000425\*\*\*\*\*  
ZITO, ROBERT L.  
4600 N SUNCASTLE CT.  
APPLETON, WI 54913

(H) 920-850-3097  
(C) 847-922-1854

r.zito@att.net

Telephone number:

Email Address:

Name and address where payment should be sent (if different from above)

S/A

Telephone number:

Email Address:

**1. Amount of Claim as of Date Case Filed: \$ 10,088.81**

If all or part of your claim is secured, complete Item 4 below; however, if all of your claim is unsecured, do not complete item 4. \*~~CREDITOR - Robert ZITO ST.11 OWN THE SHARES (45%) of Lehman Brothers~~

If all or part of your claim is entitled to priority, complete Item 5.

If all or part of your claim qualifies as an Administrative Expense under 11 U.S.C. §503(b)(9), complete Item 6.

- Check this box if all or part of your claim is based on a Derivative Contract.\*  
 Check this box if all or part of your claim is based on a Guarantee.\*

\*IF YOUR CLAIM IS BASED ON AMOUNTS OWED PURSUANT TO EITHER A DERIVATIVE CONTRACT OR A GUARANTEE OF A DEBTOR, YOU MUST ALSO LOG ON TO <http://www.lehman-claims.com> AND FOLLOW THE DIRECTIONS TO COMPLETE THE APPLICABLE QUESTIONNAIRE AND UPLOAD SUPPORTING DOCUMENTATION OR YOUR CLAIM WILL BE DISALLOWED.

Check this box if claim includes interest or other charges in addition to the principal amount of the claim. Attach itemized statement of interest or additional charges. Attach itemized statement of interest or charges to this form or on <http://www.lehman-claims.com> if claim is a based on a Derivative Contract or Guarantee.

**2. Basis for Claim: MISREPRESENTATION OF FACTS /By Lehman Brothers and Ted Dick Fuld**  
(See instruction #2 on reverse side.)

**3. Last four digits of any number by which creditor identifies debtor: 08-13555 CAD#**

**3a. Debtor may have scheduled account as: \_\_\_\_\_**  
(See instruction #3a on reverse side.)

**4. Secured Claim** (See instruction #4 on reverse side.)

Check the appropriate box if your claim is secured by a lien on property or a right of setoff and provide the requested information.

Nature of property or right of setoff:  Real Estate       Motor Vehicle       Other

Describe: \_\_\_\_\_

Value of Property: \$ \_\_\_\_\_ Annual Interest Rate %

Amount of arrearage and other charges as of time case filed included in secured claim, if any:

\$ \_\_\_\_\_ Basis for perfection: \_\_\_\_\_

**Amount of Secured Claim: \$ \_\_\_\_\_ Amount Unsecured: \$ \_\_\_\_\_**

**6. Amount of Claim that qualifies as an Administrative Expense under 11 U.S.C. §503(b)(9): \$ \_\_\_\_\_**  
(See instruction #6 on reverse side.)

**7. Credits:** The amount of all payments on this claim has been credited for the purpose of making this proof of claim.

**8. Documents:** Attach redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages and security agreements. Attach redacted copies of documents providing evidence of perfection of a security interest. (See definition of "redacted" on reverse side.) If the documents are voluminous, attach a summary.

**DO NOT SEND ORIGINAL DOCUMENTS. ATTACHED DOCUMENTS MAY BE DESTROYED AFTER SCANNING.**

If the documents are not available, please explain:

Date: 7/6/09

**Signature:** The person filing this claim must sign it. Sign and print name and title, if any, of the creditor or other person authorized to file this claim and state address and telephone number if different from the notice address above. Attach copy of power of attorney, if any. *Robert Zito*

UNIQUE IDENTIFICATION NUMBER: 4000000425

Filed: USBC - Southern District of New York  
Lehman Brothers Holdings Inc., Et Al.  
08-13555 (JMP) 0000005444



Check this box to indicate that this claim amends a previously filed claim.

**Court Claim Number:** \_\_\_\_\_  
(If known)

Filed on: \_\_\_\_\_

Check this box if you are aware that anyone else has filed a proof of claim relating to your claim. Attach copy of statement giving particulars.

Check this box if you are the debtor or trustee in this case.

**5. Amount of Claim Entitled to Priority under 11 U.S.C. §507(a).** If any portion of your claim falls in one of the following categories, check the box and state the amount.

Specify the priority of the claim:

- Domestic support obligations under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B).  
 Wages, salaries or commissions (up to \$10,950), earned within 180 days before filing of the bankruptcy petition or cessation of the debtor's business, whichever is earlier - 11 U.S.C. § 507(a)(4).  
 Contributions to an employee benefit plan - 11 U.S.C. § 507(a)(5).  
 Up to \$2,425 of deposits toward purchase, lease, or rental of property or services for personal, family, or household use - 11 U.S.C. § 507(a)(7).  
 Taxes or penalties owed to governmental units - 11 U.S.C. § 507(a)(8).  
 Other - Specify applicable paragraph of 11 U.S.C. § 507(a)(\_\_\_\_\_.)

**Amount entitled to priority:**

\$ 10,088.81

THIS WAS A QUALIFIED RETIREMENT ACCOUNT 100% VESTED (401-K) AND ROLLOVER IRA. THANK YOU

FOR COURT USE ONLY

FILED / RECEIVED

JUL 16 2009

EPIQ BANKRUPTCY SOLUTIONS, LLC



PO BOX 733 • BENSALEM PA 19020-0733  
Please do not send deposits or correspondence to this address

TD AMERITRADE, DIVISION OF TD AMERITRADE  
INC - SDBA FOR PLAN PARTICIPANTS  
PO BOX 2209  
OMAHA NE 68103-2209

C3-060105386  
NEW YORK LIFE TRUST CO TR  
THE WARRANTY GROUP INC SAVINGS PLAN  
FBO ROBERT L ZITO  
4600 N SUNCASTLE CT  
APPLETON WI 54913-7504

00001643

8

1643

\* MISLED PRESENTATION OF FACTS

By LEHMAN BROTHERS (C) 2008  
DICK FLD

\* \* CREDITOR - Robert L Zito

STILL OWNS THE BELOW LISTED SHARES (431)  
OF LEHMAN BROTHERS

**SIPC**

### Confirmation Notice

ACCOUNT NO.	OTHER INFO	TRANSACTION NUMBER	CAP CODES	YOUR REPRESENTATIVE
0398564-1		039856409610	5	THE WARRANTY GROUP INC SAVINGS
ACTIVITY	QUANTITY	CUSIP NUMBER	PRICE	PRINCIPAL AMOUNT FEES SALES FEE
YOU BOUGHT	1	8100	23.34940	23.35
AS OF TRADE DATE	TRADE DATE	SETTLEMENT DATE	INTEREST	COMMISSION NET AMOUNT
	06/23/2008	06/26/2008		23.35
TRADE DESCRIPTION	SYMBOL			
LEHMAN BROS HLDGS INC COM	LEH			
THIS IS AN UNSOLICITED TRADE	<ul style="list-style-type: none"> <li>• Qualified Act</li> <li>• 401-K</li> <li>• Roll over IRA money</li> </ul>			
	THANK YOU.			

ACCOUNT NO.	OTHER INFO	TRANSACTION NUMBER	CAP CODES	YOUR REPRESENTATIVE
0398564-1		039856407291	5	THE WARRANTY GROUP INC SAVINGS
ACTIVITY	QUANTITY	CUSIP NUMBER	PRICE	PRINCIPAL AMOUNT FEES SALES FEE
YOU BOUGHT	430	8100	23.34990	10,040.46
AS OF TRADE DATE	TRADE DATE	SETTLEMENT DATE	INTEREST	COMMISSION NET AMOUNT
	06/23/2008	06/26/2008		25.00 10,065.46
TRADE DESCRIPTION	SYMBOL			
LEHMAN BROS HLDGS INC COM	LEH			
THIS IS AN UNSOLICITED TRADE	TH 10,065.46			

ROBERT ZITO  
4600 N SUNCASTLE CT.  
Aptens 5913

RECEIVED

JUL 16 2009

Lehman Brothers Holdings CLAIM Processing  
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